

Excerpts
Planning Commission Minutes
June 14, 2006

Application No. UP-701-06, Richmond 20MHz, LLC, d.b.a. NTELOS: Request for a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 17, No. 7), to authorize the establishment of a telecommunications tower up to 172' in height on the Magruder Elementary School campus located at 700 Penniman Road (Route 641) at the intersection of Penniman Road and Merrimac Trail (Route 143) and further identified as Assessor's Parcel No. 10-14-A. The property is zoned RC (Resource Conservation) and is designated General Business in the Comprehensive Plan.

Timothy C. Cross, AICP, presented a summary of the staff report dated June 7, 2006 in which the staff recommended approval through the adoption of proposed Resolution No. PC06-14.

Mr. Ptasznik inquired as to the height of the existing communications tower at Waller Mill Elementary School and how far from the building it sets - or how strong a wind would blow it down. **Mr. Cross** stated the tower is 150 feet tall and would be expanded to 180 feet tall, as approved by the Board, and is designed to collapse upon itself rather than tip over. The distance from the proposed tower to the school building is less than the height; but, he added, experience has shown telecommunications towers to be able to withstand hurricanes better than most other types of structures.

Mr. Staton asked if propane would be stored inside the structure and for what it is intended. **Mr. Cross** stated there is a plan to store a propane canister that would not be inside a building and that its purpose would be to power a generator.

Mr. Ptasznik opened the public hearing.

Vernon Geddy, Esq., 1177 Jamestown Road, Williamsburg, represented the applicant. Mr. Geddy agreed with the staff report and the conditions. He did not believe the tower would be obtrusive.

Mr. Abel inquired about additional users or prospects to use the tower, other than the applicant.

Mr. Marc Cornell, Richmond 20 MHz, LC, dba NTELOS, stated that no prospects have been notified at this point of the process, but once they are notified the work to co-locate users could be done very quickly. He noted that the wireless communications industry has changed in the way networks are designed, improving services and service areas. There is a major effort in the industry to satisfy customers' expectations to be able to use wireless everywhere, including residential areas.

There were no others to speak, and **Chair Ptasznik** closed the public hearing.

Mr. Abel acknowledged that alternatives were considered but was skeptical that within the next two years somebody "within a mile of the site" is going to want to build another tower because this one is not tall enough. Co-location is a good concept, he believed, and requested that staff continue to force wireless providers to look at all alternatives that encourage co-location. Compromise may be possible in cases where a prospective user does not think existing towers are adequate.

On motion of **Mr. Davis**, which carried 6:0 (Mr. Barba absent), the following Resolution No. PC06-14 was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A 172-FOOT SELF-SUPPORTING MONOPOLE
COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED
EQUIPMENT AT 700 PENNIMAN ROAD

WHEREAS, Richmond 20MHz has submitted Application No. UP-701-06, which requests a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 17, No. 7), to authorize the establishment of a telecommunications tower up to 172' in height on the Magruder Elementary School campus located at 700 Penniman Road (Route 641) in the northeast quadrant of the intersection of Penniman Road and Merrimac Trail (Route 143) and further identified as Assessor's Parcel No. 10-14-A (GPIN# F14d-4249-0904); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application; and

WHEREAS, the Commission has determined, pursuant to Section 15.2-2232 of the Code of Virginia, that the proposed communication tower location is substantially in accord with Charting the Course to 2025: The County of York Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of June, 2006 that Application No. UP-701-06 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval for a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 17, No. 7), to authorize the establishment of a telecommunications tower up to 172' in height on the Magruder Elementary School campus located at 700 Penniman Road (Route 641) in the northeast quadrant of the intersection of Penniman Road and Merrimac Trail (Route 143) and further identified as Assessor's Parcel No. 10-14-A (GPIN# F14d-4249-0904), subject to the following conditions:

1. This use permit shall authorize the construction of a freestanding monopole communications tower with associated equipment on the parcel of land located at 700 Penniman Road (Route 641) and further identified as Assessor's Parcel No. 10-14-A.
2. The height of the tower, including the lightning rod, shall not exceed 172 feet.
3. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of land clearing or any construction activity on the subject property. Except as modified herein, said plan

shall be substantially in conformance with the sketch plan submitted by the applicant titled "Telecommunications Facility: Magruder School (RMB-5421)", dated 3/23/06 and prepared by JMT Engineering. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.

4. The tower shall be designed and constructed with antennas located inside the monopole only as depicted on Sheet C3 of the above-referenced sketch plan. No external antenna arrays shall be permitted.
5. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.
6. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
7. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
8. The access easement shown on the above referenced sketch plan shall be established for the benefit of tower users for purposes of ingress, egress, and installation and maintenance of utilities associated with the proposed telecommunications facility prior to site plan approval.
9. Advertising and signage on the tower shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
10. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.
11. If at any time use of the communications tower ceases, the owner of the subject property on which the tower is located shall dismantle and remove it within six (6) months after ceasing to use it, unless:

- (1) A binding lease agreement or letter of intent with another wireless communications provider has been executed in which case an additional six (6) months shall be granted. If a letter of intent is provided, the execution date for a binding lease agreement shall not extend more than (12) months beyond the time the use of the tower ceases, or
 - (2) The County requests, in writing, that the tower be reserved for County use.
12. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.
 13. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is to be constructed.
 14. The proposed 8-foot chain link fence surrounding the facility shall be outfitted with opaque material deemed acceptable for screening purposes by the Zoning Administrator.
 15. The compound shall be covered with netting designed to prevent recreational equipment (baseballs, softballs, etc.) from entering the compound.
 16. The communication tower shall be gray in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multi-color painting. If painting is required, a tower maintenance plan shall be submitted to and approved by the County.
 17. No microwave dishes, conical shaped antennae, or other dish shall be permitted on the tower.
 18. The communications tower shall be structurally designed to accommodate no fewer than three (3) wireless users capable of supporting either PCS or cellular antenna arrays. If space is available, the County shall have the right of first refusal for leasing a space on the tower to place an antenna in support of operations consistent with the County's Department of Fire and Life Safety.
 19. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
